IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL REVISION APPLICATION No. 996 of 2005

For Approval and Signature:

HONOURABLE MR.JUSTICE J.R.VORA

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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RAJENDRA AJITBHAI BASIYA
Versus
STATE OF GUJARAT

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Appearance :
MR PRANAV M RAVAL for Applicant
MS DS PANDIT APP for Respondent

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CORAM : HONOURABLE MR.JUSTICE J.R.VORA
Date : 23/12/2005

ORAL JUDGMENT

1 RULE. Waived by learned APP Ms D.S.Pandit for the respondent State.

2 Learned Advocate Mr. P.M.Raval for the applicant and learned APP Ms. D.S. Pandit for the respondent were heard upon the request.

3 The question which precisely arises is whether a court can compel the witness to obtain hand writing for forwarding the same to hand writing expert for comparing the same with disputed hand writing. The answer must be in the negative. True it is that, under Section 45 as well as under Section 73, the Court has ample powers to compare the admitted hand writing on record with disputed hand writing and may come to the conclusion, but those power would not include to compel a witness to give admitted hand writing.

4 In this view of matter, this Revision Application is allowed. The order impugned in this Revision Application passed by learned Second Joint District Judge, Rajkot, on 15th of December, 2005 in Sessions Case No. 26 of 2005 below Applications Exh. 74 and 79 is quashed and the Revision Application is

allowed and rule made absolute to that extent, but it is clarified that under Section 45 and Section 23, the court may compare admitted as well as disputed hand writing and may come to any conclusion.

(J.R.VORA, J.)

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